

**UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

**AT BECKLEY**

UNITED STATES OF AMERICA

v.

CRIMINAL ACTION NO. 5:24-cr-00138

BRYSON J. ENGLAND

**ORDER**

Pending is the Government's Response to Court's Orders and Motion to Amend [Doc. 37], filed March 14, 2025. It requests to amend the Indictment to reflect the correct statute for the underlying felony conviction, W. Va. Code § 61-2-9. It contends a clerical error in an indictment may be corrected without resubmitting the case to the grand jury in consideration of the defendant's notice, any potential increase in punishment, and the possibility of prejudice. [Doc. 37 (citing *United States v. Bledsoe*, 898 F.2d 430, 432 (4th Cir. 1990))]. Defendant Bryson J. England does not object. [Doc. 38].

The parties agree the Indictment references the correct offense name but does not cite the correct statute. They assert, however, that an amendment may be permitted without presenting the case anew to the grand jury in consideration of the key factors cited above. They contend an amendment is proper inasmuch as Mr. England participated in the proceedings relating to the prior conviction, was provided documents showing the prior conviction, and that amending the Indictment to reflect the correct statute would in no way alter his sentencing exposure.


Inasmuch as the statutory error constitutes a mere variance rather than a constructive amendment, the Court **GRANTS** the Motion [Doc. 37] and **DISCHARGES** the

Show Cause Order [**Doc. 36**]. *See United States v. Banks*, 29 F.4th 168, 174 (4th Cir. 2022); *United States v. Whitfield*, 695 F.3d 288, 308 (4th Cir. 2012).

The Court **DIRECTS** the Clerk to send a copy of this Order to the Defendant and counsel, to the United States Attorney, to the United States Probation Office, and to the Office of the United States Marshal.

ENTER: April 3, 2025



  
Frank W. Volk  
Chief United States District Judge